

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MALCOLM ANTONIO GREEN,

Defendant.

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NO.: 93-20220/An

**ORDER DENYING MOTION TO REDUCE SENTENCE PURSUANT TO
18 U.S.C. § 3582 (c)**

On February 27, 2008, Defendant Malcolm Antonio Green, Bureau of Prisons (“BOP”) inmate registration number 14404-076, an inmate at Oakdale FCI in Oakdale, Louisiana, filed a pro se motion in his closed criminal case seeking a reduction in sentence pursuant to 18 U.S.C. § 3582(c)(2) as a result of the retroactive application of Amendment 706 to the United States Sentencing Guidelines. Amendment 706 adjusts downward by two levels the base offense level assigned to each threshold quantity of crack cocaine listed in the Drug Quantity Table in § 2D1.1. See U.S.S.G. § 2D1.1 (Nov. 1, 2007); U.S.S.G. Supp. To App’x C, Amend. 706. Only those persons currently serving a sentence determined or affected by a sentencing range calculated using the drug quantity table, U.S.S.C. § 2D1.1, are potentially eligible for the reduction. United States v Tingle, 2008 WL 819026 (E.D. Ark. Mar. 25, 2008).

To determine whether Defendant is eligible for a sentence reduction, the court must determine the amended guideline range “that would have been applicable to the defendant if the

crack cocaine amendment . . . had been in effect at the time the defendant was sentenced.”

U.S.S.G. § 1B1.10(b)(1). The Court may only substitute the amended retroactive guideline, in this case § 1D1.1, and shall leave all other guideline application decisions from the original sentencing unaffected. Id. The applicable sentencing guideline range for Defendant was based on his status as a career offender.

As the Court has determined that Defendant’s sentence was not based on a guideline range affected by Amendment 706, Defendant’s motion to reduce sentence pursuant to 18 U.S.C. § 3582(c) is **DENIED**.

IT IS SO ORDERED.

s/ S. Thomas Anderson
S. THOMAS ANDERSON
UNITED STATES DISTRICT JUDGE

Date: September 15th, 2008.